

Application No. 10/042,508

ALZ0004-01DV

REMARKS

In the Advisory Action mailed on June 6, 2005, the rejection of claims 1-11 and 30-33 was maintained for the reasons set forth in the Office Action mailed on December 14, 2004.

Applicant respectfully reiterates that United States Patent No. 5,908,400 (Higo) fails to disclose or suggest every feature recited in applicant's claims. Independent claims 1 and 33 are directed to methods of forming an anhydrous reservoir layer of an electrode assembly.

Applicant recognizes that the embodiments shown in Figures 2(a)-2(c) of the instant application shows an electrode assembly that includes an electrode layer 22, a hydrating layer 38 (which may be in the form of a hydrogel), and a dry agent membrane 36. Applicant further recognizes that in the embodiments shown in Figure 2(b), the dry agent membrane 36 may be the outermost layer placed against the patient's skin. Therefore, to the extent applicant's remarks were construed to exclude the embodiment shown in Figure 2(b), these remarks are withdrawn.

While the Examiner maintains that electrode assembly in Higo comprises the connector, electrode, gel and adhesive, applicant asserts that the drug layer 8 in Higo is a separate and distinct layer that cannot reasonably be considered a reservoir layer as claimed by applicant. In Higo, the reservoir is defined by the space inside container 1 that holds the gel 4 and the resin 5. Even when the drug layer 8 of Higo is attached to the device, it is separated from the reservoir portion of the device by the self-adhesive layer 7 (See Figure 2).

As shown in Figures 1 and 2(a)-2(c), the hydratable matrix 36 is part of the reservoir. In the applicant's claimed invention of claims 1 and 33, which have been amended to positively recite the reservoir layer, the hydratable matrix is a reservoir layer and part of the reservoir, not exterior to the reservoir as in the device shown in Higo. The structure defined by claims 1 and 33 is not taught or suggested by Higo, and reconsideration of claims 1 and 33 is respectfully requested.

In addition, as noted in the previous response, Higo teaches the use of a hydrated hydrogel matrix contained within the reservoir. The hydrogel surrounds the electrode 3. Applicant's specification at paragraph [0015] discusses the shortcomings of hydrated

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hydrogels being in contact with electrodes for extended periods of time. New claims 34, 36 and 38 include the limitation that the electrode assembly is a dry electrode assembly. This feature is not taught or suggested by Higo, and applicant maintains that Higo teaches away from a dry electrode assembly. Support for the dry electrode assembly can be found in at least the original claims of the instant patent application.

Applicants have also added new claims 35 and 37, which contain the limitation that the device is a self-contained unit including an anode, cathode and a power source. New claim 38 also contains this feature. The device in Higo requires an external power source and a reference electrode. Support for the limitations in claims 35, 37 and 38 can be found at least in Figure 1 and paragraph [0026] of the applicant's specification.

In view of the foregoing remarks, the application is believed to be in condition for allowance, and early notice to this effect is earnestly solicited. If allowance of this application may be expedited by resolution of simple issues through a telephone conference, the Examiner is welcome to contact the undersigned.

Applicant submits a Petition for Revival and a petition fee under 37 C.F.R. 1.137(b) under 37 C.F.R. 1.17(m). Applicant authorizes the USPTO to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned attorney, Deposit Account No. 50-3329.

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Respectfully submitted,  
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